

Remarks

Claims 1-4 are presently pending. **Claims 1-4 have been rejected.**

Claims 1, 2 and 4 have been amended for purposes of clarification. These amendments are purely formal in nature and introduce no substantive changes into the claims. Hence, no new matter has been introduced by these amendments.

The Examiner has rejected claims 1-4 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention. The Examiner contends that claims 1 and 2 are indefinite because they initially claim the subcombination of a roof venting/cover assembly but later recite a combination with the roof. The Examiner asserts that it is unclear whether the Applicant intends to claim the subcombination or the combination. For purposes of this initial Office Action, the Examiner considers the claims to be drawn to the subcombination of the roof venting/cover assembly only. The Examiner advises the Applicant to clearly amend the claims so that they recite either the subcombination or the combination and to be consistent throughout the claims.

Claims 1, 2 and 4 have been formally amended to clarify that they are directed to roof venting and cover assemblies. Claims 1-4 now fully comply with the requirements of 35 U.S.C. 112, second paragraph.

Reconsideration and withdrawal of the rejection are respectfully requested.

The Examiner has rejected claims 2 and 3 under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,149,516 to Mantyla ("Mantyla"). The Examiner asserts that Mantyla teaches: a housing that includes a narrow upper duct portion 20, a wide lower scoop portion 36, the narrow upper portion has an open upper end, the lower portion has an open lower end, a cover member 14 openably secured to the open upper end of the duct portion, a ventilation grate 30 secured over the open lower end of the lower portion, the cover member includes a peripheral frame around the open upper end and the peripheral frame includes a raised peripheral lip extending upwardly from the inner edge thereof.

This rejection is respectfully but strenuously traversed for the reasons set forth in detail below.

A rejection of a claim under 35 U.S.C. § 102(e) must anticipate each and every element of the claim in order for it to be proper. Mantyla fails to disclose each and every

element claimed by the Applicant. Thus, the Examiner's rejection of claims 2 and 3 as anticipated by Mantyla is improper.

Mantyla does not disclose the roof venting and cover assembly of amended claim 2. Claim 2 recites, among other elements, a housing that includes a narrow upper duct portion and a wide lower scoop portion. Gas conduit 20 might be interpreted as a narrow upper duct portion of the apparatus of Mantyla, and cylindrical downstream section 36 might be viewed as a wide lower scoop portion thereof. However, Mantyla teaches that the open upper end of gas conduit 20 is in communication with vent fan 16 (col. 3, lines 53-54). In addition, it is disclosed that vent fan 16 is in communication with vent inlet 14 (col. 3, lines 50-52). Mantyla does not mention that any other structure attaches to the open upper end of gas conduit 20. Claim 2 also recites a cover member that is secured over the open upper end of the narrow upper duct portion of the housing and that includes an openable lid. This limitation is not taught by Mantyla. Even if extraordinary claim construction is undertaken and vent fan 16 is considered a "cover member", Mantyla does not anticipate claim 2 since it provides no indication whatsoever that vent fan 16 includes an openable lid. Furthermore, Mantyla provides no teaching that vent inlet 14 includes an openable lid. Claim 3 depends directly from claim 2 and therefore contains all of its limitations. Consequently,

claims 2 and 3 are patentably distinct from the cited reference.

Reconsideration and withdrawal of the rejection are respectfully requested. Please remove the rejection under 35 U.S.C. § 102(e) of claims 2 and 3, and enter the allowance thereof.

The Examiner has rejected claims 1 and 4 under 35 U.S.C. § 103(a) as being unpatentable over Mantyla in view of U.S. Patent No. 5,330,386 to Calandra ("Calandra"). The Examiner asserts that Mantyla teaches a venting/cover assembly as stated earlier but does not include a cover member with an openable lid hingedly coupled with the raised peripheral lip on the open upper end. However, the Examiner asserts that Calandra discloses that "it is known to provide an openable lid 24 that is hingedly coupled with a raised peripheral lip of a cover on a duct system." The Examiner concludes that it would have been obvious to place an openable lid on the vent opening 14 of Mantyla in order to reduce unwanted air flow through the vent system.

This rejection is respectfully but strenuously traversed for the reasons set forth in detail below.

In general, three basic criteria must be satisfied in order to establish a prima facie case of obviousness

(M.P.E.P. § 706.02(j)). First, the reference or combination of references must teach or suggest all of the claim limitations. Second, there must be a reasonable expectation of success. Third, there must be some suggestion or motivation, either in the references or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings.

The rejection fails to satisfy the first criterion of a prima facie showing of obviousness. Even the hypothetical combination of Mantyla and Calandra does not suggest all of the elements of the roof venting and cover assemblies defined by claims 1 and 4. Neither Mantyla nor Calandra teaches a) a peripheral frame that includes a raised peripheral lip extending upwardly from an inner edge thereof or b) an openable lid that hingedly couples with such a raised peripheral lip, both of which are recited in claims 1 and 4. Indeed, with regard to the second of these limitations, Calandra teaches (col. 4, line 67 – col. 5, line 33):

Panel 16 is typically three-eighths to three-quarter inch plywood through which an opening is cut substantially the same shape, but slightly smaller than frame 20 leaving about one-half inch of plywood around the edges to receive screws 36 extending through holes 34 in the frame to hold device 10 on the bottom surface of the plywood sheet...The surface of device 10 shown in FIG. 6 is abutted against end plywood panel 16 and is held in position with screws 36 through holes 34. The opening through plywood panel 16 is cut to the dimensions of inside

peripheral edge 50 of the inside opening
of frame 20 after which device 10 is
attached in place.

Therefore, the combined teachings of Mantyla and Calandra do
not render obvious the inventions defined by claims 1 and 4.
Consequently, claims 1 and 4 are patentably distinct from the
cited combination of references.

Reconsideration and withdrawal of the rejection are
respectfully requested. Please remove the rejection under 35
U.S.C. § 103(a) of claims 1 and 4, and enter the allowance
thereof.

In view of the foregoing amendments and remarks,
reconsideration and allowance of the pending claims are
respectfully solicited. Please remove the rejections under
35 U.S.C. § 112, 35 U.S.C. § 102(e) and 35 U.S.C. § 103(a),
and enter the allowance of claims 1-4. The Applicant
respectfully requests that a timely Notice of Allowance be
issued in this case.

Respectfully submitted, Reg. No. 53,120

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